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Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Joseph Bernard Weinman, Jr.
Application No. 09/903,979
Filed: July 12, 2001
Attorney Docket No. 113490

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**DECISION ON PETITION
UNDER 37 CFR 1.137(f)**

This is a decision on the petition, filed May 15, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is dismissed as MOOT.

An applicant who makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See Notice published on www.USPTO.gov on June 6, 2003, which clarifies the USPTO's interpretation of the provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv).

In the instant application, a notice to rescind was filed prior to the filing date of a corresponding application in a foreign country. Therefore, since the request to rescind received prior to the filing date of a corresponding application in a foreign application resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of \$1300 is being credited to Deposit Account No. 01-2745 as authorized.

This application is being forwarded to Technology Center 2600, Art Unit 2664 for examination in due course.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.



Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Frances Hicks
Petitions Examiner